ANNUAL REPORT 2007

Labour Relations Board

BRITISH COLUMBIA

LABOUR RELATIONS BOARD

2007
ANNUAL REPORT

Ministry of Labour and Citizens' Services
Honourable Olga Ilich, Minister

March 31, 2008

The Honourable Olga Ilich
Minister of Labour and Citizens' Services
Parliament Buildings
Victoria, B.C.
V8V 1X4

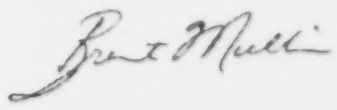
Dear Honourable Minister:

RE: Labour Relations Board 2007 Annual Report

I am pleased to forward the 2007 Annual Report of the Labour Relations Board for the year ending December 31, 2007. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,

LABOUR RELATIONS BOARD



Brent Mullin
Chair

Enclosure

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CHAIR'S MESSAGE

I am pleased to report a number of very positive developments in 2007 at the Labour Relations Board.

First is the appointment of four new Vice Chairs to the Board: Michael Adam, Beverley Burns, Ritu Mahil and Bruce Wilkins.

We are fortunate to have attracted the services of these individuals. They are all experienced in labour relations, extremely capable, and engaging. We look forward to working with them at the Board.

The appointments also mark a move to a new generation of practitioners at the Board. This will help to ensure a successful transition to the future.

At the same time, we have been equally fortunate in the reappointments of Mike Fleming and Mark Brown to the Board. Their reappointments have enabled us to ensure continuity and stability at the Board. Both Mike and Mark are well-known and respected in the community. Their reappointments have rightly been appreciated in the community.

We are similarly pleased to have Mark Atkinson return to the Board as a Mediator. Mark is also well-known and respected in the community. The reintroduction of his energy and skills to the Mediation Division is of great assistance.

The appointments of Mark Atkinson and Mark Brown are key parts of the restoration and resurgence of the Mediation Division at the Board. Mark Brown's appointment as Associate Chair of Mediation, for instance, is the first time since 2002 that the Board has been able to have that position, and its full scope of challenges and opportunities, pursued on a full-time basis.

The Mediation Division will now be able to more vigorously pursue the preventative mediation and relationship development initiatives led by Debbie Cameron. Debbie's training, skills, and efforts in this regard have been recognized in her appointment as Director of Conflict Resolution Programs at the Board.

Under Debbie's leadership, the Mediation Division offers expert preventative mediation and relationship assistance with the critical component of extensive pre-program consultation with the parties. Through that initial work, the program is effectively designed with the parties in light of their particular situation and needs. It is a very successful and much appreciated approach. There is virtually an unending demand for these services.

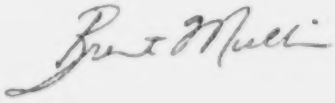
All of these positive developments at the Board – the appointments, reappointments, and the restoration and re-invigoration of the Board's Mediation Division – required the active support and assistance of the Ministry. On behalf of the Board, I wish to thank the Minister, the Honourable Olga Ilich, and Associate Deputy Minister Paul Straszak, as these developments have significantly improved our ability to serve the community.

I would also like to thank the community for its continued support of the Board.

As we move ahead, the Board will continue to focus on a mediative and problem-solving approach to labour relations matters. This approach is consistent with the amendments to the Code in 1993 and 2002 and what the parties before us tell us they need and want.

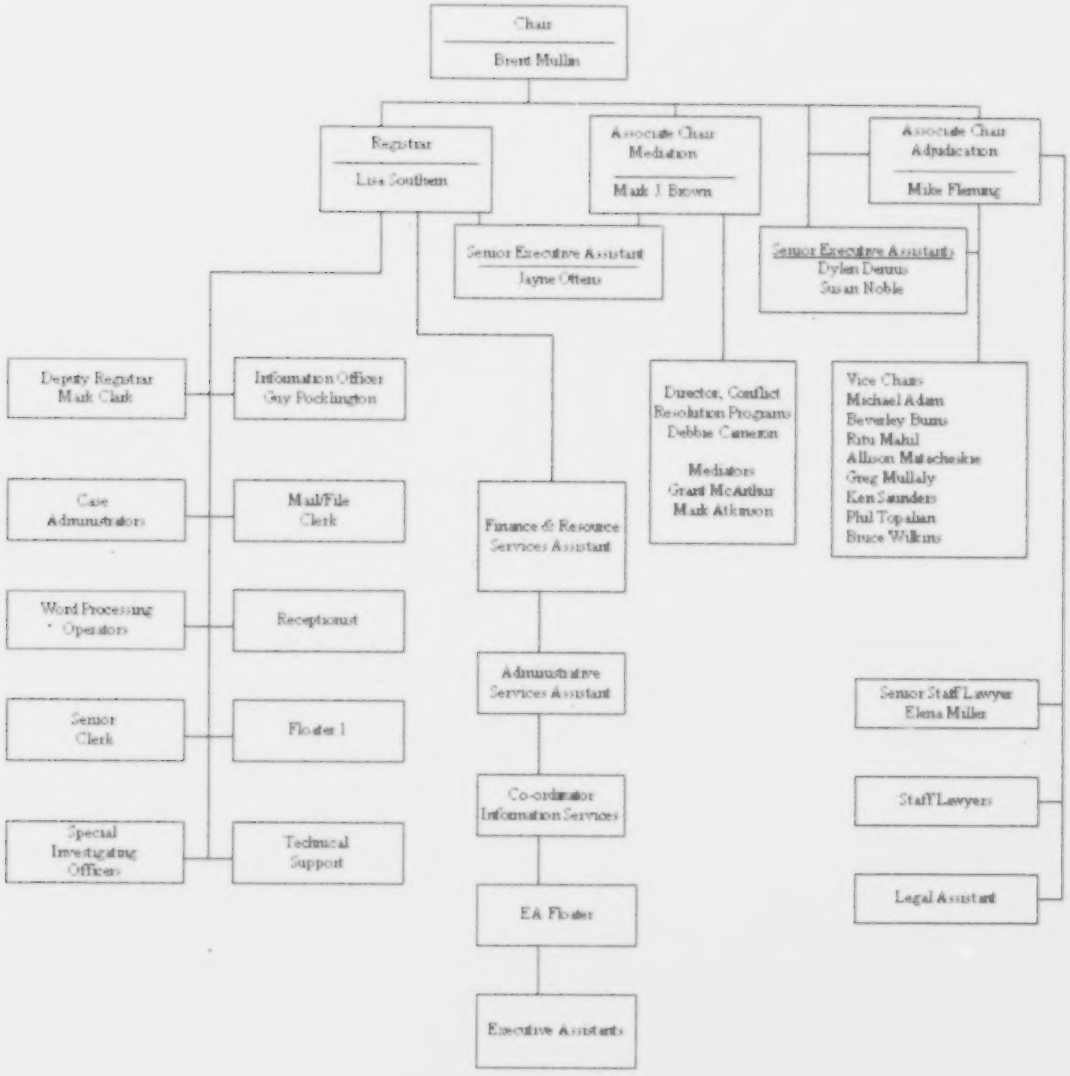
The Board has now fully interpreted and implemented these critical Code amendments. I provided an overview of the Board's work in that regard in the 2004 through 2006 Chair's Messages. That body of work sets out a new substantive framework for labour relations under the Code.

The core of the new approach is to move labour relations beyond its traditional adversarialism and confrontation to focus on achieving positive societal outcomes through mediative and practical, problem-solving approaches. This is challenging work for the parties and their representatives, and the Board, as it often requires moving outside of the comfort zone of traditional litigation and approaches. But it is both worth it and necessary, and will continue to be our approach as we move forward.



Brent Mullin
Chair

As of December 31, 2007



I. THE BOARD

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with responsibility for labour relations matters under several other statutes.

In carrying out its mandate, the Board must have regard to the manner in which it performs its duties under the Code. These are set out in Section 2:

2. The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that
(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,
(b) fosters the employment of workers in economically viable businesses,
(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,
(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,
(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,
(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,
(g) ensures that the public interest is protected during labour disputes, and
(h) encourages the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115(1) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. The Chair designates one of the Vice Chairs to act as Associate Chair, Adjudication, one to act as Associate Chair, Mediation and one to act as the Registrar. The Chair, along with the Associate Chair, establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice

Chair(s), and members in accordance with Section 117(5) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chair of Adjudication, Associate Chair of Mediation, and the Registrar report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides at proceedings of the Board and on all panels of which the Chair is a member.

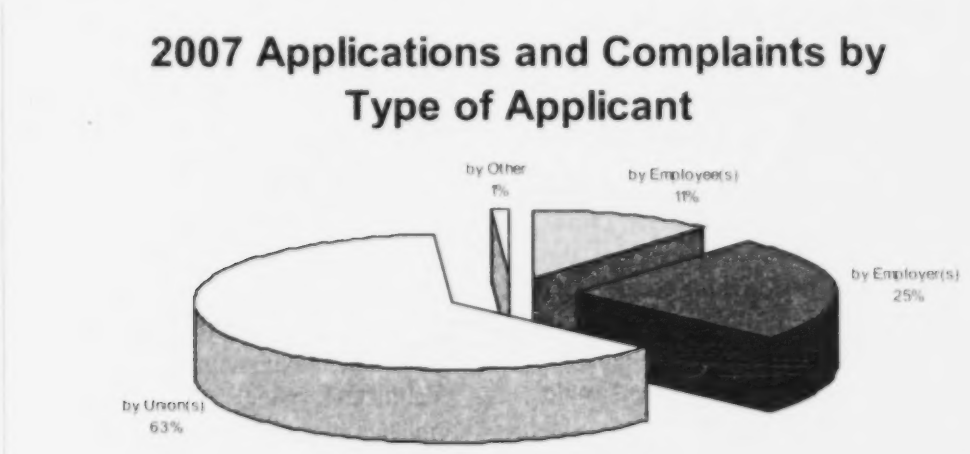
C. REGISTRY

Every application received by the Board is processed through the Registrar's office. Administration and progress of each case is overseen by the Registry until the matter is finally disposed of. Three case administrators, each dealing with a geographic area of the Province, are responsible for initiation of applications and the conduct of files.

Processing of all applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

Legislated time frames, combined with established Board policies and procedures, result in approximately 53 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints require commencement of a hearing within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, Case Administrators are responsible for completing all necessary procedures before files are forwarded to Adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies.



Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their caseload involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 9 of the statistical tables, approximately 68 percent of unfair labour practice complaints and Part 5 complaints referred to SIO's are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers (IROs) of the Employment Standards Branch of the Ministry of Labour and Citizens' Services. For example, every application for certification or decertification requires a report by an IRO. Such reports are public, with only names and numbers remaining confidential to the Board.

Both SIOs and IROs also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a wide variety of issues.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them.

In accordance with Section 122(3) of the Code, the Board appointed its first Information Officer, effective February 1, 1994. The Information Officer's responsibilities to date have encompassed two main areas: handling incoming inquiry calls and preparing written material for the public and the labour relations community.

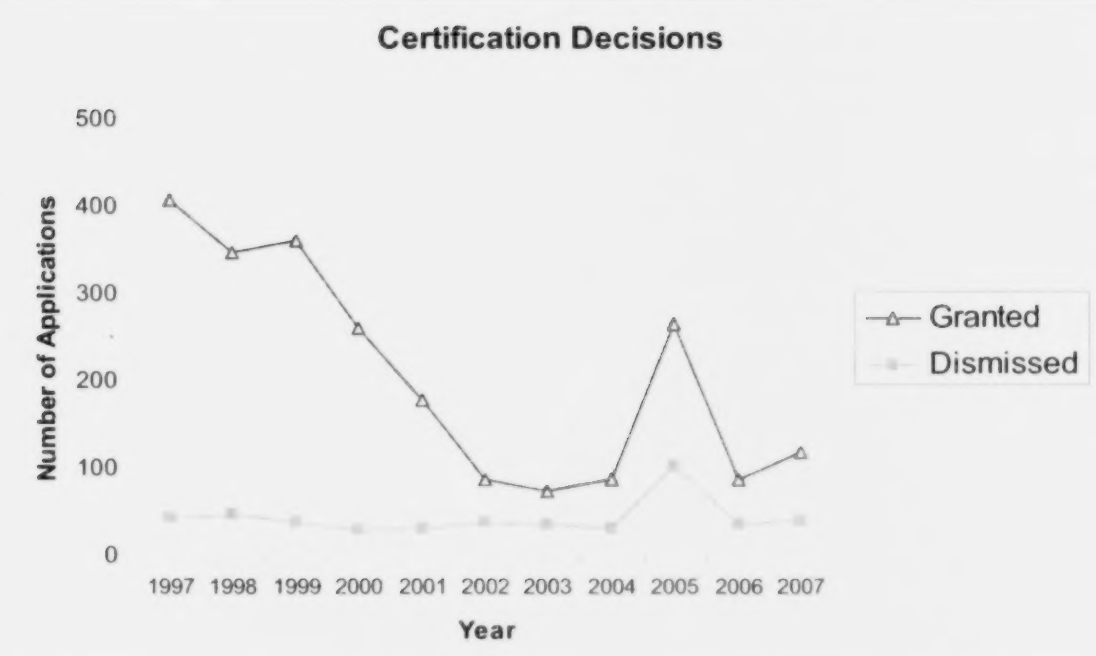
The Information Officer deals with approximately 20 phone calls per day from employers, unions, individual employees and media representatives.

The Board's publications include the *Employer's Guide to the Union Certification Process*. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The day after the Notice and Guide are sent to employers, the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process*, has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.

Another publication prepared by the Information Officer, the Board's Practice Manual, has been in use since April, 1995.

The Board's website was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The website address is www.lrb.bc.ca.



D. COLLECTIVE AGREEMENT ARBITRATION BUREAU

Effective July 5, 2002, and pursuant to the *Labour Relations Code Amendment Act, 2002*, the Collective Agreement Arbitration Bureau was brought under the administration of the Labour Relations Board. Pursuant to Section 83(1) of the Code, the Chair designated the Board's Deputy Registrar, Mark Clark, as Director of the Bureau.

The primary function of the Bureau is to appoint arbitrators where one of the parties seeks an expedited form of arbitration, where the parties seek consensual mediation/arbitration, or where there is a failure to appoint or constitute an arbitration board by one of the parties. In addition, the Bureau also appoints settlement officers to assist the parties in resolving grievances filed under collective agreements. The Labour Relations Board offers the services of its Special Investigating Officers and Mediators as settlement officers to assist the parties in resolving the grievances prior to an arbitrator's appointment by the Bureau.

Since July 5, 2002, applications filed with the Bureau for the appointment of arbitrators and/or settlement officers are processed through the Registry of the Labour Relations Board. The Registry's Case Administrators are generally responsible for the day-to-day administrative processing of the applications, with the Director responsible for the selection/appointment of the arbitrator in each case.

The Bureau, through its Director, must also maintain a register of arbitrators. A Joint Advisory Committee, as appointed by the Minister, must advise the Director on the training and education of arbitrators and settlement officers, research and publication of information about arbitrations, and establishment and maintenance of a register of arbitrators.

The Joint Advisory Committee comprises two representatives of unions, two representatives of employers and two representatives of arbitrators, along with the Director who is the chair of the committee.

E. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the Code. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker and essential services provisions; and applications for reconsideration of Board decisions.

On average, 892 cases per year were adjudicated over the past 6 years. A comparison of cases assigned for adjudication and adjudicated for the past several years is set out in the accompanying table. In 2007, the Adjudication Division published 277 decisions. Summaries of some of the noteworthy decisions can be found in Section III of this Report.

A major portion of the Division's workload continues to be adjudication of expedited applications (including certifications, unfair labour practice and Part 5 applications). During 2007, expedited applications comprised about 75 percent of cases received in the Board's major adjudication areas.

As of December 31, 2007, the Board had 8 Vice Chairs and 3 Staff Lawyers.

	2000	2001	2002	2003*	2004	2005*	2006	2007
Cases Assigned for Adjudication	1,365	1,258	860	890	1,141	919	851	919
Cases Adjudicated	1,404	1,293	957	889	936	1,006	781	782
Cases Outstanding at Year End	371	336	239	240	445	358	428	565

*Figures adjusted after publication of *LRB Annual Report* for noted year(s).

F. MEDIATION DIVISION

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship and collective bargaining information. These and other services are provided under the direction of the Associate Chair, Mediation.

Information about the services available from the Mediation Division can be obtained via the Board's website (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the Code administered by the Mediation Division.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in an effort to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

The majority of mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under Section 55. In 2007, mediators were appointed to 107 cases under Section 74 and 9 cases under Section 55. Mediators

were also involved in 19 cases carried over from previous years.

Essential Services (Section 72)

The mediation of essential services in certain public sector disputes is also part of the mandate of the Mediation Division.

Conflict Management

During 2007, the Mediation Division continued with its conflict management initiatives, not only in keeping with its mandate under the Code, but also with a view to designing individualized and relevant programs. The focus of the programs places greater emphasis on the analysis of conflict and its ongoing management in the workplace.

At the joint request of employers and trade unions, the Mediation Division consults with the parties in an effort to understand the nature and role of conflict in the parties' organization. Current methods of dispute resolution are also examined in the context of the organizational culture within which they operate. The Mediation Division works with the stakeholders to design and implement conflict management processes that focus on systemic change.

Guidelines used in the design process include: stakeholder participation, the adoption of preventative methods of alternative dispute resolution including training in interest based problem solving, the use of interest based and rights based processes, and promotion of dispute resolution throughout all levels of the organization. Openness and broad-based participation are encouraged and emphasis is also placed on the importance of feedback and continuous self-evaluation.

Relationship Enhancement

One of the forums for exploring conflict and designing conflict management systems has been the Relationship Enhancement program. The program which was originally designed as a two-day exploratory retreat has been refocused to place greater emphasis on skills in effective communication and interest based problem solving.

In a preliminary assessment, the Mediation Division determines if the parties are committed to make the changes needed in their relationship to foster a more positive climate in the workplace. The assessment is conducted through various forms of information gathering, including meetings, surveys, and/or focus group discussions. Following this initial assessment, a representative sampling of the stakeholders attend a two or three-day session away from the workplace. Two mediators normally facilitate the session. Participants receive skills training, identify conflicts affecting their relationship, and collectively develop strategies to address and manage the identified conflicts. These strategies take the form of written action plans with specific goals, time frames for achieving the goals and assignment of specific individuals who are responsible for ensuring that action plans are carried out.

Labour Management Consultation Committees

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. Using some of the same conflict management techniques described above, the Mediation Division offers assistance to employers and unions in meeting this

obligation. Assistance is offered for the establishment of new committees and/or improvement in the effectiveness of existing committees. These sessions are usually scheduled for half a day to a maximum of a day, depending on the needs of the parties.

G. ADMINISTRATION

Information Systems

The Board has a Compaq Proliant computer running Windows 2000 as an on-site file and print server. The in-house application running over the network is written in PowerHouse and the information/data collected is stored in an RDB database. Adhoc queries against the data are performed with the Impromptu software. The Board is using the XP Professional software on all its computers.

The principal computer applications contained on the in-house computers run in the following areas: case management, word processing, office automation and end user computing, statistical collection and distribution, and computer aided research.

Finance and Administration

The Finance and Administration Department is responsible for human resource matters including recruitment, payroll and benefits administration, financial management including budget, accounts payable/accounts receivable and is also responsible for all security and facilities matters.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, word processors, executive assistants, and administrative support personnel.

II. BOARD MEMBERS AND MEDIATORS

As of December 31, 2007, the Board consisted of the following members:

EXECUTIVE

BRENT MULLIN, *Chair*

Brent Mullin's education includes a B.A. from the University of Victoria, an M.A. from Queen's University at Kingston, Ontario, and an LL.B. from the University of British Columbia. From 1983 to 1992 he practised labour relations, employment and human rights law in Vancouver, British Columbia at Russell & DuMoulin (now Fasken Martineau). From 1992 to 1998 he served as a Vice Chair at the British Columbia Labour Relations Board, then returned to the practice of labour law at Fasken Martineau DuMoulin. In January 2002, he was appointed Chair of the British Columbia Labour Relations Board and in August 2002, he was also appointed Chair of the Employment Standards Tribunal.

MICHAEL FLEMING, *Associate Chair (Adjudication)*

Michael Fleming obtained a B.A. from Simon Fraser University in 1978 and worked with the Ministry of Human Resources as a social worker until 1983. He then worked for the Canadian Farmworkers Union appearing before a number of tribunals and courts on behalf of the members. He received an LL.B. in 1988 from the University of British Columbia and then articled and practised law with the firm of Rush, Crane & Guenther until 1990. From 1990 to his appointment to the Labour Relations Board as Vice Chair in 1997, he was employed by the BCGEU holding several positions and appearing before various tribunals and arbitrators on behalf of the Union and its members. He was appointed as the Associate Chair in the fall of 2002.

MARK BROWN, *Associate Chair (Mediation)*

Mark Brown was appointed to the Board as Vice Chair commencing February 1, 1996. Mark also served as a Board Mediator commencing in March of 2001. In September 2002, as part of the Board's restructuring initiative, Mark was appointed Manager Mediation Services. In September 2003, Mark was appointed Registrar as well. In June 2006, Mark resigned from the Board; however, he continued to work part-time under contract. In February 2008, Mark was appointed Associate Chair, Mediation.

LISA SOUTHERN, *Vice Chair and Registrar*

Lisa Southern received her law degree from Osgoode Hall Law School at York University in 1996. She was called to the British Columbia Bar in 1997 and practiced at Russell & DuMoulin (now Fasken Martineau DuMoulin), specializing in labour, employment and human rights issues. In 1997 she joined Forest Industrial Relations Inc. as a labour relations advisor. Lisa provided

employment, labour relations and human rights advice for the forest industry umbrella organization, established to administer and bargain the collective agreement governing member companies and employees certified with IWA-Canada. In 1998 she returned to practice law in the areas of labour, employment and human rights at Fasken Martineau DuMoulin. From 2003 to 2006, she served as a Vice Chair at the Board. She was appointed as Registrar in 2006.

VICE CHAIRS

MICHAEL ADAM, *Vice Chair*

Michael Adam received a B.Comm (Honours) (Industrial Relations) from U.B.C. in 1989. He also holds a Conflict Resolution Certificate from the Justice Institute of B.C. and is a Certified Human Resources Professional. After working as a Research Analyst for the Hospital Employees' Union from 1989 to 1991, he returned to U.B.C. and completed his LL.B. in 1994. Following law school, he clerked at the B.C. Supreme Court and later articled at Bolton and Muldoon before being called to the Bar in March 1996. From 1996 to 1999, he worked as an associate at the municipal law firm of Lidstone Young Anderson, handling labour and employment matters for local governments. From 1999 to 2001, he worked at Forest Industrial Relations Ltd., providing contract administration, training and labour arbitration services to FIR members. In 2001, he joined Alexander Holburn Beaudin & Lang as part of the Labour and Employment Practice Group, becoming a Partner in 2003. In 2005, he joined Weyerhaeuser as a Labour Relations Director, with responsibility for negotiating and administering labour agreements in timberlands, wood products, containerboard packaging, pulp and paper and distribution throughout Washington, Oregon, California and Hawaii. Mike was appointed as a Vice Chair of the Labour Relations Board in May 2007.

BEVERLEY BURNS, *Vice Chair*

Beverley Burns obtained a Bachelor of Arts (Hons. History) in 1982 and a Bachelor of Laws in 1987 from the University of Western Ontario. She also received a Master of Laws (Alternative Dispute Resolution) from Osgoode Hall Law School in 1998. She has been practicing law since she was called to the Bar in 1989. Since then, she has held various positions including: associate at McMillan Binch, in-house counsel to the Airline Division of CUPE, Executive Assistant to the Deputy Minister of Labour-Management Services at the Ontario Ministry of Labour, in-house counsel to Woolworth Canada Inc. and Director of Labour Relations for WorkSafeBC. Beverley was appointed as a Vice Chair of the Labour Relations Board in May 2007.

RITU MAHIL, *Vice Chair*

Ritu Mahil received B.A., LL.B., and M.P.A. degrees from the University of Victoria. Ritu worked at the Labour Relations Board in 2000 on a special project regarding the Duty of Fair Representation complaint process. She summered at Victory Square Law Office and articled at Fiorillo Glavin Gordon, a labour law firm exclusively representing unions. She was called to the Bar in 2002. Ritu has been an instructor with the Labour Studies Programme at Capilano College where she instructed union stewards, business agents, and executive officers in various labour law and labour relations matters. She has also presented at a number of workshops through Lancaster House. Ritu was in-house legal counsel to the Health Sciences Association from 2002 to May 2007. Ritu was appointed as a Vice Chair in May 2007.

ALLISON MATACHESKIE, *Vice Chair*

Allison Matacheskie received her LL.B from the University of Ottawa in 1989. She articled in British Columbia with the firm of Stevenson, Norman, and practiced labour law exclusively representing unions. She was called to the British Columbia Bar in 1990 and remained with Stevenson, Norman until 1992 when she left to practice criminal law as crown counsel. After two years prosecuting at the provincial court level, she returned to labour law and joined the firm of Victory Square Law Office, a firm which exclusively represents unions. In 2001, she joined the firm of Granville and Pender Labour Law Office. In October 2002, she accepted a temporary contract with the Ministry of Attorney General as a special assignment prosecutor. She was appointed as a Vice Chair in January 2004.

GREG MULLALY, *Vice Chair*

Greg Mullaly took degrees in philosophy at Dalhousie University (B.A. (Hons.), 1975) and the University of Oxford (B. Phil., 1978) before returning to Dalhousie University to study law. He received an LL.B. in 1981 and then practiced labour law for nineteen years, most recently at Victory Square Law Office. Greg was appointed as a Vice-Chair in June 2000.

KEN SAUNDERS, *Vice Chair*

Ken Saunders obtained a Bachelor of Arts degree from Simon Fraser University in 1987 and a Bachelor of Law degree from the University of British Columbia in 1990. Following graduation, he acted as Assistant Director of the Hospitality Industrial Relations Employers' Association where he was responsible for grievance arbitration and Labour Relations Board matters. In 1996, he joined the Community Social Services Employers' Association until his appointment as a Vice Chair in October 2000. At CSSEA he headed the Dispute Resolution and Research Services Department and acted on behalf of member agencies in Labour Relations Board, Employment Standards, Human Rights and collective agreement arbitration proceedings. On October 11, 2000, Ken was appointed as a Vice Chair of the Labour Relations Board.

PHILIP TOPALIAN, *Vice Chair*

Philip Topalian received a law degree from the University of British Columbia in 1977 and practiced law from 1978 to 1980. Philip was appointed to the position of Labour Relations Officer in the Provincial Government in 1989, holding the position of Senior Labour Relations Officer with the Public Service Association since 1995. Philip has extensive experience in negotiations as well as appearing as counsel before a variety of employment related tribunals. He was appointed as a Vice Chair in October 2005.

BRUCE WILKINS, *Vice Chair*

Bruce Wilkins was introduced to labour relations while studying at the University of Toronto for his B.A. in philosophy. While attending the University of Toronto and working at the library, he became a steward and then the Chief Steward of CUPE Local 1230. After obtaining his B.A. he went to law school and graduated from Queens University Law School in 1997. He articled at Victory Square Law Office, a firm which exclusively represents unions, and was called to the Bar in 1998. He worked for two years as Crown Counsel in traffic and criminal prosecutions. He returned to the labour relations community as in-house counsel for the Health Sciences Association of British Columbia, representing the union in arbitrations, Labour Relations Board proceedings and professional discipline hearings. He was appointed as a Vice Chair in May 2007.

MEDIATORS

DEBBIE CAMERON, *Mediator and Director of Conflict Resolution Programs*

Debbie Cameron graduated from the Caribou College Registered Nursing program in 1976. In 1981 she joined the B.C. Nurses' Union, initially as a Labour Relations Officer, then as Negotiations Officer, and in 1992 became the Co-ordinator of Hospitals and Organizing. As Hospitals Co-ordinator, she was responsible for negotiations and contract administration of all hospital sector collective agreements covering more than 17,000 employees. Debbie joined the Board as a mediator in 1994. Debbie has a Certificate in Conflict Resolution from the Justice Institute of British Columbia, a Certificate in Intercultural Studies from the University of British Columbia, a Masters degree in Conflict Analysis and Management from Royal Roads University, and recently completed the Provincial Instructor Diploma program at Vancouver Community College.

MARK ATKINSON, *Mediator*

Mark Atkinson was a staff representative with the Hospital Employees' Union from 1981 to 1995 when he joined the Labour Relations Board as a Mediator. In 2004, Mark joined Federal Mediation and Conciliation Services as a Mediator. Mark was also employed by the Interior Health Authority as the Associate Director of Human Resources prior to going into a private mediation/arbitration practice for three years. Mark rejoined the Board in January 2008.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Grant joined B.C. Rail in 1986, where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

III. HIGHLIGHTS OF BOARD DECISIONS

In 2007, the Adjudication Division published 277 numbered decisions. The following are summaries of some of the more noteworthy decisions issued during the year. These summaries are provided for interest only, and they do not constitute legal or authoritative interpretations of the decisions in question. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca).

Benton & Overbury Ltd. et al., BCLRB No. B35/2007 — Local 2009 applied under Section 142 of the Code to vary craft certifications it holds for each of the Employers. It sought all-employee bargaining unit descriptions. If successful, this would cancel craft certifications held by CMAW. The Board found that a craft certification can be varied under Section 142, but only where the application is to vary the unit to represent all of the employees of the employer in an all-employee unit.

Seli Canada Inc. and SLCP-Seli Joint Venture, BCLRB No. B36/2007 (Leave for Reconsideration dismissed: BCLRB No. B173/2007; upheld on judicial review: 2008 BCSC 51; appeal filed) — The Employer applied for a last offer vote under Section 78 of the Code. The Union raised three objections to the application. First, the Union argued the vote should not be counted because the Employer coerced or intimidated the employees. Second, the Union said the last offer contained a provision that was contrary to the *Human Rights Code* and was therefore illegal. Third, the Union argued the Employer's offer was different than the proposal presented in bargaining and it had not first presented the proposal to the Union. The Board dismissed all of the Union's objections and ordered that the ballots cast be counted.

Michael Nolin, BCLRB No. B55/2007 (Leave for Reconsideration of BCLRB No. B123/2006) — Nolin and the Employer applied for reconsideration of an original decision which found that statements made by Nolin in a letter to employees of Wal-Mart were coercive and intimidating contrary to Section 9 of the Code. Nolin argued the original decision erred in finding his statements coercive or intimidating and therefore falling outside the protection of Section 8. Nolin argued that because he was not in a position (as the Employer or its spokesperson) to carry out the threat of store closure stated or implied in the letter, he could not be guilty of coercion or intimidation. Given the nature of Nolin's allegations against the Union and Nolin's reliance on his stature and knowledge as a lawyer in making them, the reconsideration panel found no error in the conclusion that Nolin's communication was coercive and intimidating and thus a breach of Section 9 of the Code.

Janet Tansley, BCLRB No. B63/2007 (Leave for Reconsideration of BCLRB No. B6/2007) — Tansley applied for leave and reconsideration of an original decision dismissing her application for an extension of the 15-day time limit for making a Section 99 application on the basis that new evidence had become available. The reconsideration panel found that the new evidence would not have a material or potentially determinative effect on the CRC decision. It was immaterial to the CRC's decision in this case what the cause was of Tansley's symptoms, since the decision turned not on their cause, but on their effect on her ability to work. The application for reconsideration was dismissed.

Coquitlam Ridge Construction Ltd., BCLRB No. B103/2007 — Even if the Collective Agreement only provides rates of pay, hours of work and other conditions of employment for

some of the employees in a unit that is the object of an application for certification, a collective agreement is in force within the meaning of Section 19(1) with respect to that unit.

Limo Jet Gold Express Ltd., BCLRB No. B106/2007 — PSAC applied under Section 99 of the Code for review of an arbitration award that found that PSAC had become a party to a collective agreement. PSAC argued that it could not be a party to the collective agreement because it was not a trade union within the meaning of the Code. The Board found that the Local Union remains the employees' exclusive bargaining agent until that status is cancelled under the Code. The Local Union and the Employer may not sidestep these statutory mechanisms by agreeing to add PSAC as a party to the collective agreement, clothed with the status to conclude a collective agreement. That outcome is contrary to the principle of exclusive bargaining agency and statutory mechanisms that regulate the transfer for that status. A national organization does not acquire trade union status for itself when it establishes a local or provincial branch. Rather, it breathes life into an entity that is eligible for trade union status standing in its own right. The Board concluded that PSAC did not have trade union status and only a trade union can be a party to a collective agreement with an employer. The arbitration award was set aside. The Board substituted a decision denying the Employer's application to add PSAC as a party to the arbitration.

Gibraltar Mines Ltd., BCLRB No. B129/2007 (Leave for Reconsideration denied: BCLRB No. B237/2007) — If a collective agreement's "duration" or "term" article unambiguously says what the agreement's term is, then, regardless of what the parties may have intended the term to be, or whether the collective agreement actually was in effect for all of the clearly stated term, the Board will use the stated term to determine what the seventh and eighth months of the collective agreement are, unless doing so would be inconsistent with some Code principle or Code provision. If a collective agreement's "duration" or "term" article does not unambiguously say what the agreement's term is, then the Board will determine whether, when the agreement is read as a whole, its term is unambiguously disclosed. If reading a collective agreement as a whole does not unambiguously disclose what the agreement's term is, the Board will adopt an approach that is required by Section 50 of the Code when parties enter into a collective agreement for a term of less than one year. In those circumstances, the Board determines the date the collective agreement came into operation.

Sharon Bard, BCLRB No. B132/2007 — A previous Board decision allowed Bard's Section 12 complaint and directed that the Union pay damages to compensate her for the lost opportunity of having her grievances adjudicated. The parties were unable to agree on the calculation of damages to compensate Bard. The Board concluded that a fair reading of the previous panel's decision was that an award of damages was payable to compensate Bard for her loss of employment, as her employment status could no longer be determined as a matter of just cause before an arbitrator and it was the Union's actions that caused the lost opportunity. The Board also held that the calculation of damages should be grounded in the collective agreement, rather than the common law.

Graehold Construction Corp. et al., BCLRB No. B136/2007 (Leave for Reconsideration of BCLRB No. B20/2007) — The Union complained that the Employer amalgamated two companies in order to rid itself of a bargaining relationship. The Board held the employer's motivation for an amalgamation can be relevant to a determination of whether Section 6(1) has been breached. However, the Board has to consider whether there are *bona fide* business purposes for a decision to amalgamate or whether the amalgamation or transfer of the business was primarily for the purpose of avoiding collective agreement obligations. Here, it was open to the original

panel to conclude that the decision to amalgamate was made for a *bona fide* business purpose and therefore did not breach Section 6(1) of the Code.

Hastings Entertainment Inc., BCLRB No. B155/2007 (Leave for Reconsideration of BCLRB No. B16/2007) — The Union applied for reconsideration of an original decision that dismissed the Union's application for review of an arbitrator's award. The Union argued that "parol" or extrinsic evidence cannot be used to determine the mutual intention of the parties where there was no consensus between the parties. Further, the Union argued the arbitrator and the original panel improperly relied on parol evidence, rather than the collective agreement language. The reconsideration panel held that where a collective agreement provision is ambiguous as to its meaning, and the parties have clear but contrary perceptions about what was intended, an arbitrator may rely on extrinsic evidence to find that a party must have intended to contract on certain terms, even though, subjectively, it may not have had that intention. The policy that arbitrators may, if necessary, use an objective test to determine mutual intent in order to resolve a collective agreement dispute is consistent with Section 2(e) of the Code, which makes it a duty to promote the orderly, constructive and expeditious settlement of disputes. Accordingly, the application was dismissed.

Simpe 'Q' Care Inc., BCLRB No. B161/2007 (Leave for Reconsideration of BCLRB No. B171/2006) — The Employer applied for reconsideration of an original decision which found the Employer breached Section 6(1) of the Code and that a single bargaining unit encompassing two work sites at which employees of the Employer work, was an appropriate bargaining unit. With respect to the Section 6(1) issue, the reconsideration panel held that it is not a breach of the Code for an employer to invite a union to organize its employees and to express its preference for one union over another. While the meetings may have been a mixture of persuasion and pressure, their content was within the lawful expression rights in Section 8 of the Code and short of the more direct forms of pressure constituting unlawful coercion or intimidation. The reconsideration panel noted that a good start for any party wishing to exercise its expression rights under the Code, but also not fall afoul of the restrictions in the Code, is to consider the nature of their potential conduct in respect to the employees. Does it treat the employees respectfully, including allowing them the proper opportunity to make inquiries, review what they have heard, and make up their minds in regard to what is being put before them? With respect to the bargaining unit appropriateness issue, the reconsideration panel upheld the bargaining unit appropriateness determination, but noted that the presumption against multiple bargaining units in *IML* is a rebuttable presumption. The Board will want to see that the structures it establishes contribute to matters such as successful collective bargaining which furthers the interests of the three Section 2(a) parties and the furthering of the provision of critical patient services in the public interest. The application for reconsideration was dismissed.

Orca Bay Hockey Limited Partnership, BCLRB No. B172/2007 (Leave for Reconsideration of BCLRB No. B138/2006) — Orca Bay and the NHL applied for reconsideration of a decision dismissing their objections to the BC-NHLPA's application for certification. They argued that the original panel erred in concluding that a separate bargaining unit including only the Vancouver Canucks would be an appropriate bargaining unit under the Code. The reconsideration panel noted that determining bargaining unit appropriateness is at the heart of the exercise of the Board's labour relations judgment and is quintessentially a policy determination. The conduct of the parties is a critical aspect of the context in labour relations matters. Further, consideration must be given to the new approach to labour relations flowing from the 1993 and 2002 amendments to the Code. In particular, pursuant to Sections 2(b) and (d), for their mutual benefit, employers and unions

must be encouraged to work together constructively in important areas of shared interest. In accordance with these Section 2 principles, the reconsideration panel found that it was proper for the Board to consider the implications on the bargaining relationship between the NHL and the NHLPA of granting the certification applied for by the BC-NHLPA. When those implications were considered, the reconsideration panel found that it was inappropriate to grant the certification application. The reconsideration panel found that inoperable damage to the collective bargaining relationship between the NHL and the NHLPA did not need to be established in order to persuade the Board that certifying a bargaining unit of Canucks players only is inappropriate, when considered in the operational and labour relations context of the employer, Orca Bay. The application for reconsideration was granted and the certification cancelled.

Greater Victoria Public Library Board, BCLRB No. B205/2007 — The Employer applied for a declaration that the Union's strike vote was invalid because the Employer did not have an opportunity to provide a response to the Union's wage proposal prior to the strike vote. The panel found the obligation on the Union in this case was to provide the Employer with a reasonable opportunity to respond to the Union's wage proposal. In this case, the Union did not conduct the strike vote until more than three weeks after providing its wage proposal to the Employer. It was apparent that the Employer was aware of the Union's intention to conduct a strike vote, but chose not to provide its wage proposal to the Union or request that the Union delay the vote in order to give the Employer an opportunity to provide its wage proposal. As such, the panel found no breach of Section 59(1) and the application was dismissed.

Coast Mountain Bus Company Ltd., BCLRB No. B230/2007 (Leave for Reconsideration of BCLRB No. B181/2007) — It is not a prerequisite to Board jurisdiction over conduct in the nature of picketing that there be a collective agreement or a collective bargaining relationship between the picketer and the entity being picketed. The statutory requirement is that the picketing be in respect to a matter or dispute to which this Code applies - that is, a labour dispute. The Board's jurisdiction under Section 67 is not ousted where there is an assertion or finding that the picketing at issue is also political in nature or could be characterized as a political protest, political campaign or political demonstration. Where an application to the Board discloses a *prima facie* case that a person engaged in conduct in the nature of peaceful picketing in respect of a labour dispute at a time or place not permitted under the Code, the Board has jurisdiction to consider the application and decide whether the impugned conduct constitutes picketing in breach of Part 5 of the Code.

Columbia Hydro Constructors Ltd., BCLRB No. B235/2007 (Leave for Reconsideration of BCLRB No. B44/2007) — CMAW applied for reconsideration of an original decision which rejected its application to replace the British Columbia Provincial Council of Carpenters (BCPC) as a member of the poly-party certification issued to the Allied Hydro Council (AHC). The application was allowed on the basis that the Board has jurisdiction to vary the certification of a Section 20 voluntary council of trade unions, notwithstanding that the members of the council do not consent to the variance, and that in the particular circumstances of this case it was appropriate for the Board to exercise this discretion and replace BCPC with CMAW on the certification.

Gateway Casinos Limited Partnership, BCLRB No. B236/2007 (Leave for Reconsideration denied: BCLRB No. B258/2007) — The Union applied for a declaration that the Employer violated Section 6 of the Code when it augmented the duties and responsibilities of supervisors as a result of the Board's finding that supervisors did not exercise "effective determination" with respect to disciplinary matters. The Union argued the changes were a violation of the employees'

right to access collective bargaining as the changes were done to ensure the supervisors could not unionize. The Employer argued the changes were within its management rights and were done to ensure the supervisors were part of the management structure. The Board found that the factors in this case did not support a finding that there was a violation of the Code. Parties are free to organize their affairs with a view to the existing case law or policy of the Board. The fact that a decision of the Board affecting those parties motivated the Employer to change the terms and conditions of employment of certain employees in and of itself does not establish the basis for an unfair labour practice. Accordingly, the unfair labour practice complaint was dismissed.

Servantage Services Corp., BCLRB No. B241/2007 — The Association of Bargaining Agents for Servantage Services Corp. applied under Section 37 of the Code for a declaration that it had acquired the CAW's rights, privileges and duties under the Code with respect to the representation of the Employer's employees in collective bargaining. The Employer argued the Association did not establish it was a "trade union" under the Code, it did not demonstrate the application was supported by the true wishes of the employees, and the application was an improper attempt to circumvent the requirements of Section 20 of the Code. For the purposes of trade union status determination in the case of a voluntarily formed council or association, the Board is concerned with whether each trade union that is a member of the council has authorized the council to act on its behalf as a bargaining agent. The Board further held that a union seeking approval for a proposed successorship is not under an obligation to anticipate every question that members may have about the proposal. It suffices if, before voting, the members are given (i) enough information to appreciate the advisability of asking questions if there is something about the proposal they do not understand; (ii) an opportunity to ask such questions; (iii) accurate answers to the questions, and (iv) a reasonable opportunity to discuss those answers and the proposal before voting. The Board found no facts were alleged that could lead the panel to conclude that the reason more employees did not vote was due to inadequate notice of the vote. The Board found the Association was a trade union, its application did not amount to an improper use of Section 37 to gain representation rights and its application was supported by the true wishes of the affected employees. Accordingly, the Board declared that the Association acquired the CAW's rights, privileges and duties under the Code with respect to the Employer's employees.

Mysts Productions Inc., BCLRB No. B242/2007 — A card meeting Regulation 3 requirements is evidence of "'membership in good standing", regardless of whether the person who signs it ultimately becomes a member. The critical determination is whether a person has signed an application for membership in the required form on the date the Board receives the application for certification. The fact that an applicant is not guaranteed membership in the future is immaterial for the purposes of determining "membership in good standing".

Roger Hubner et al., BCLRB No. B249/2007 (Leave for Reconsideration of BCLRB No. B231/2007) — Section 151 sets out a statutory minimum in terms of financial information a union is required to make available to its members. That is, it sets a floor, not a ceiling, as to the level of disclosure union members can reasonably expect their unions to provide them with in terms of audited financial statements. Members who seek such information from their unions should not be required to present detailed reasons for concern about their union's finances in order to justify such a request. The issue is not whether the members have an objective basis for concern, but whether the request for information is reasonable in its scope and would not cause undue hardship for the union to fulfill.

Canadian Forest Products Ltd., BCLRB No. B275/2007 (Leave for Reconsideration of

BCLRB No. B312/2006) — Canfor applied for reconsideration of an original decision which held that two individual respondents - but not their union, the HEU - contravened the Code by picketing illegally outside Canfor's mill. Canfor argued that the original panel erred in failing to hold that the HEU authorized the illegal picketing that occurred, and alternatively, in failing to consider its "vicarious liability" argument. The individual respondents applied for reconsideration of the original decision on the basis that it erred in rejecting their legal arguments that their conduct did not breach the Code's picketing provisions or, alternatively, if their conduct did breach the Code, then the Code provisions prohibiting their conduct violated their Section 2 rights under the *Charter of Rights and Freedoms*. The reconsideration panel rejected the individual respondents' application, finding that the original decision correctly rejected their legal arguments. With respect to Canfor's application, the reconsideration panel held that a union's obligations under the picketing provisions of the Code are broader than merely refraining from authorizing illegal picketing by its members. The reconsideration panel drew upon principles enunciated by labour arbitrators concerning a union's responsibility under "no strike" collective agreement provisions, and by Courts under the rubric of vicarious liability. It held that a union must be able to establish that it took reasonable steps to bring illegal picketing by its members to an end. Also relevant is whether the union employed a strategy which fostered and promoted the unlawful picketing. The reconsideration panel remitted to the original panel the question of whether, in all the circumstances, the Union breached its obligations under Part 5 of the Code.

IV. COURT DECISIONS

1. ***Stark v. School District No. 39 (Vancouver),*** 2007 BCSC 301 - The respondent School District applied for an order dismissing the petition and an order that the petitioner be prevented from filing any further applications or proceedings without leave of the Court. The Court reviewed the history of the proceedings and determined the petition was *res judicata* and accordingly dismissed the petition. The Court also found the evidence established there had been a vexatious effort to re-litigate matters and ordered that the petitioner not institute further applications or proceedings related to this matter without leave of the Court.

2. ***Construction and Specialized Workers' Union, Local 1611 v. BC Labour Relations Board,*** 2007 BCSC 315 - The petitioner applied for judicial review of Board decisions that found that Lockwood Bros. was not the successor employer to Trivern Enterprises under Section 35 of the Code. The petitioner argued that the Board breached the rules of natural justice and made a patently unreasonable decision. The Court found no breach of natural justice and found that the Board did not commit patently unreasonable errors of fact or law. Accordingly, the petition was dismissed.

3. ***Speckling v. Kearney,*** 2007 BCCA 145 - The appellant appealed an order dismissing the appellant's action against the provincial Crown on the ground that it did not disclose a reasonable cause of action and was otherwise an abuse of process. The issue was whether the Crown could be held vicariously liable for allegedly tortuous conduct of adjudicators acting under the authority of the Code. The Court found no error in the decision of the chambers judge and the appeal was dismissed.

4. ***Hospital Employees' Union v. BC Labour Relations Board,*** 2007 BCSC 331 - The petitioner applied for judicial review of a Board decision that refused to order a remedial certification, even though it found that the employer committed an unfair labour practice in the course of a union organizing campaign. The petitioner argued the Board applied the wrong test for remedial certification. The Court found that the question of whether to order a remedial certification is discretionary and is exclusively within the Board's jurisdiction. Therefore, the appropriate standard of review was patent unreasonableness. The Court found the Board's decision was rationally supported by the relevant legislation and the alleged errors did not amount to a patently unreasonable decision. Accordingly, the petition was dismissed.

5. ***Speckling v. British Columbia (Labour Relations Board),*** 2007 BCCA 153 (Leave to appeal to the Supreme Court of Canada denied: [2007] S.C.C.A. No. 221) - The appellant appealed from an order dismissing his application for judicial review of a Board decision. The Court dismissed the appeal, finding that the Board's reasons and conclusions were not patently unreasonable and there was no evidence of bias.

6. ***HEU and BCTF v. HEABC and BCPSEA,*** 2007 BCSC 372 (Appeal filed) - The petitioners applied for judicial review of Board decisions that upheld the constitutional validity of the definition of strike in the Code. The issue before the Court was whether the Code's prohibition on work stoppages during the term of a collective agreement infringes s. 2(b) of the *Charter* to the extent that it prohibits activity undertaken for a political rather than a collective bargaining purpose, and, if so, whether that infringement is justified under s. 1 of the *Charter*. The Court concluded that the Board's decision upholding the constitutional validity of the definition of strike was correct in law.

The Court found that there is no constitutional right for individuals to act in concert for a political purpose by a withdrawal of employment services, whether that activity is framed as a political strike, or as an exercise of political expression, assembly or association. As such, the Court found that the definition of strike does not infringe s. 2(b), as it does not prohibit the content of political expression and its purpose and effect does not prevent individuals from exercising their right to political expression by attending protest rallies. The restriction merely requires that such political expression not involve a mid-contract withdrawal of services. As such, it is a restriction of time and form rather than a ban on the content of expressive activity and is consistent with restrictions on the expressive activity of all individuals in an employment relationship. The Court further found that ss. 2(c) and 2(d) of the *Charter* were not breached, and that in the event that determination was wrong, the definition of strike would be saved by s. 1 of the *Charter*.

7. ***University of British Columbia v. University of British Columbia Faculty Association***, 2007 BCCA 201 (Leave to appeal to the Supreme Court of Canada denied: [2007] S.C.C.A. No. 275) – The appellant appealed a decision of the chambers judge dismissing the petition for judicial review. The appeal raised two issues. The first issue was whether on judicial review, the Board's interpretation of an external statute attracts a patently unreasonable standard of review. The second issue was whether the arbitrator's interpretation of a provision in the collective agreement conflicts with external statutes. The majority of the Court of Appeal found that the chambers judge erred in concluding that patent unreasonableness was the standard of review to be applied in respect of the Board decision in this case and that the appropriate standard of review was correctness. The majority also found that the chambers judge erred in failing to find a conflict between the *University Act* and the arbitrator's interpretation of the collective agreement. Accordingly, the appeal was allowed and the order of the chambers judge was set aside.

8. ***University of British Columbia Faculty Association v. University of British Columbia and Labour Relations Board,*** (April 13, 2007), Vancouver Registry No. S067022 (B.C.S.C.) – The petitioner applied for judicial review of Board decisions that imposed a remedy which had not been proposed by either of the parties. The petitioner argued the decisions were patently unreasonable and inconsistent with the fundamental principle of exclusive bargaining agency. The Court found the Board's decisions were within its jurisdiction. The Board provided a reasoned analysis and a rational basis for its conclusions and the decisions were not patently unreasonable. Accordingly, the petition was dismissed.

9. ***Compass Group Canada (Health Services) Ltd. v. HEU,*** 2007 BCCA 237 – The appellant appealed from a decision of the chambers judge dismissing the petition for judicial review and finding that the appellant had not been denied procedural fairness in a certification hearing before the Board, even if it was assumed that some evidence the appellant had put forward was not taken into account by the original panel. The appellant argued the chambers judge erred in her application of *Universite du Quebec a Trois-Rivieres v. Larocque*, [1993] 1 S.C.R. 471, when she concluded the appellant had not been denied procedural fairness. The Court found that the chambers judge did not err in law in her application of the principles derived from *Larocque* in determining the question of whether the appellant was denied a fair hearing on the certification application. Accordingly, the appeal was dismissed.

10. ***UFCW Local 1518 v. BC Labour Relations Board and Wal-Mart Canada Corp.***, 2007 BCSC 546 (Appeal filed) – The petitioner applied for judicial review of a reconsideration decision overturning an original decision which had allowed an application for certification. The petitioner argued it was denied a fair hearing and the rules of natural justice were breached. The petitioner also argued the Board exceeded its jurisdiction by considering matters not properly before it, the Board failed to provide adequate reasons for its decision, and there was a reasonable apprehension of bias on the part of the reconsideration panel. The Court dismissed all of the petitioner's arguments and accordingly, the application for judicial review was dismissed.

11. ***Construction and Specialized Workers' Union, Local 1611 v. BC Labour Relations Board et al.***, 2007 BCSC 593 – The petitioner applied for judicial review of Board decisions refusing to adjudicate the petitioner's jurisdictional assignment dispute. The petitioners argued the decisions were beyond the Board's jurisdiction or were patently unreasonable. The Court found the Board's decisions were logically supportable and were not patently unreasonable. Accordingly, the petition was dismissed.

12. ***Jones v. IWA, Local 1-3567***, 2007 BCSC 673 – The petitioner applied for judicial review of decisions of the Board dismissing a complaint against his union pursuant to Section 12 of the Code. The petitioner argued the Board made reviewable errors and denied him natural justice and procedural fairness. The Court found a breach of natural justice. As such, the Board's decisions were set aside and the matter was remitted to the Board.

13. ***NIL/TU,O Child and Family Services Society v. BCGEU***, 2007 BCSC 1223 – The petitioner argued the Board did not have standing to make submissions as to its determination on jurisdiction in the context of a judicial review of a decision to certify a bargaining unit to the petitioner. The petitioner argued that the standard of review is correctness and any argument in support of the Board's jurisdiction would be arguing the merits of the case. The court found this was not an appropriate case to grant standing to the Board because it would amount to granting the Board the opportunity to expand on its reasons or argue the merits of the decisions.

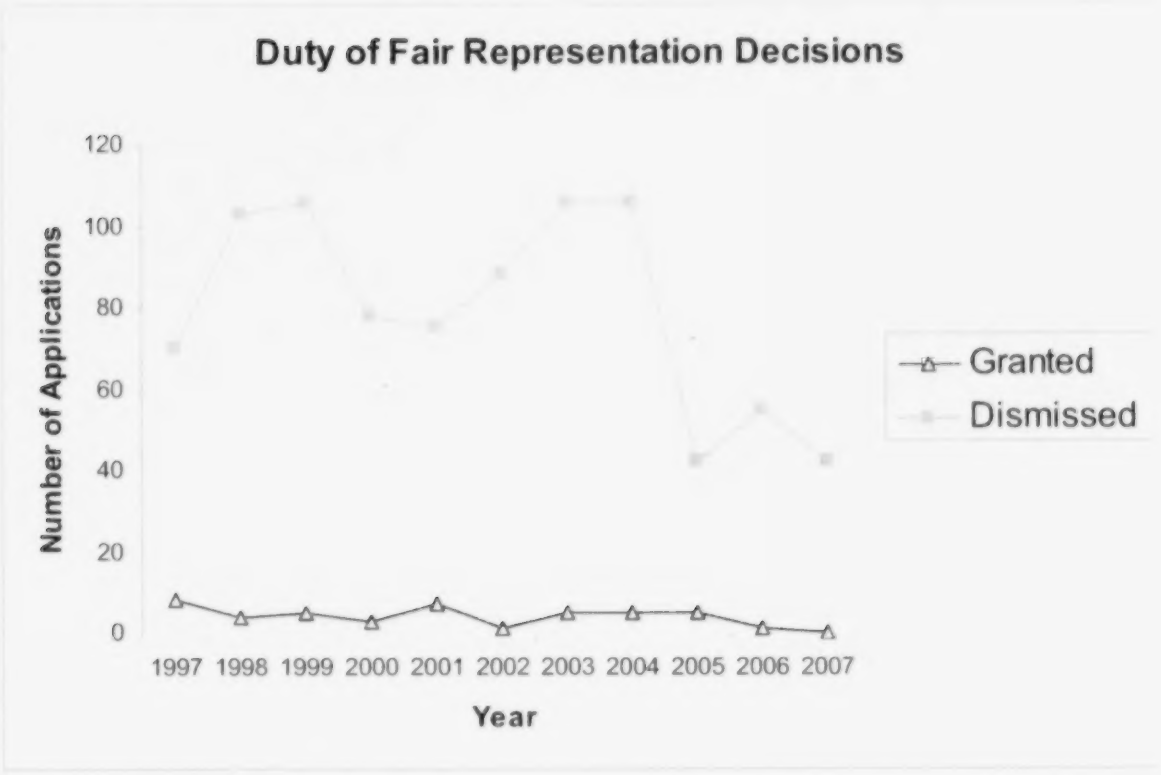
14. ***NIL/TU, O Child and Family Services Society v. BCGEU***, 2007 BCSC 1080 (Appeal filed) - The petitioner applied for judicial review of Board decisions granting certification to the union for the petitioner. The petitioner argued the Board is without constitutional jurisdiction with regard to the labour relations of the petitioner. The petitioner argued that the operations and normal activities of the petitioner make the operation a federal undertaking. The applicable standard of review was correctness. The court concluded that under the functional test, the operation and normal activities of the petitioner are matters falling within federal jurisdiction. Accordingly, the Court found the Board erred in granting the certification and the union's certification was quashed.

15. ***United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (Local 170) v. British Columbia (Ministry of Labour and Citizens' Services)***, 2007 BCSC 1518 – The petitioner applied to have a letter from the Minister of Labour pursuant to Section 41 of the Code, directing the Board to consider whether a revision to the composition of BCBCBTU should be made, quashed on the basis that he lacked jurisdiction to make the decision. Alternatively, the petitioner sought a declaration that the Minister erred in law and exceeded his jurisdiction by failing to

apply the principles of natural justice and sought an order that the decision be set aside on the basis of the jurisdictional error. The Court found the Minister had the statutory authority to direct the Board to consider the revision. The Court also concluded there was no requirement to give the petitioner either notice of the investigation or the opportunity to be heard prior to the Minister's decision. The Court found there was no breach of procedural fairness or natural justice. Accordingly, the petition was dismissed.

16. ***BCTF v. BCPSEA***, 2007 BCSC 1655 – The petitioners applied for judicial review of Board decisions which found that an in-dispute declaration was void for all purposes and unenforceable. The petitioners argued that the Board erred in its interpretation of Section 70 of the Code, erred in concluding that the respondent's business had been substantially affected by the in-dispute declaration, erred in concluding that s. 2(b) of the *Charter* was not infringed, and erred in its s. 1 analysis. The Court found the appropriate standard of review regarding the Board's interpretation of Section 70 of the Code was correctness and that the Board was correct in its interpretation. The Court found that the Board's finding that the respondent's business had been substantially affected was not patently unreasonable. The Court found that the Board was correct in finding that s. 2(b) of the *Charter* was not breached. The Court found the s. 1 analysis was without consequence, so nothing flowed from any errors or unfairness which may have occurred in relation to this issue. Accordingly, the petition was dismissed.

17. ***Canadian Office and Professional Employees Union, Local 15 v. Telecommunications Workers' Union Pension Plan***, 2007 BCSC 1834 – The petitioner sought judicial review of two orders of the Board varying the certification of the petitioner as the bargaining agent for employees of certain trade unions and related organizations. The Board's decisions decertified the petitioners as the bargaining agent for multi-employer units of those employees and issued certifications for single-employer units of those same employees. The petitioner alleged the Board denied it procedural fairness and the decisions were patently unreasonable. The Court dismissed both petitions for judicial review finding no procedural unfairness. The Court concluded that if there had been breaches of procedural fairness, they would have been cured in the reconsideration process. The Court also found that the Board's decisions were not patently unreasonable and that the configuration of bargaining units is a matter at the core of the Board's expertise, and that its approach was supported by sound reasoning, based on relevant consideration and mindful of the legislative purpose.


Duty of Fair Representation Decisions
Number of Applications
120
100
80
60
40
20
0
1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007
Year
Granted
Dismissed

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EXPLANATORY NOTES TO TABLES

The following tables provide an analysis of the applications filed and disposed of in 2007. In some cases, statistics from 2006 and other years are provided for comparative purposes.

As of 2005, Table 1 of the *LRB Annual Report* includes applications and complaints Filed Previous and Remainder Active. These figures help provide an overview of the active or current caseload at the Labour Relations Board.

Statistical Tables Definitions:

- **Application/Complaint**: a section or subsection of the *Labour Relations Code*. A case may be comprised of more than one application or complaint (section);
- **Filed Previous**: count of applications/complaints received prior to the report period but not disposed of prior to the report period;
- **Filed Current**: count of applications/complaints received in the report period.
- **Disposed of Current**: count of applications/complaints with a final disposition in the report period;
- **Remainder Active**: count of applications/complaints received prior to the end of the report period (may be included in the filed previous count or filed current count) which have no final disposition as of the report end date.

In previous years, a number of other changes have been made in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for reference.

Changes in Tables

Tables available in previous years regarding vote information for representation applications, details of Part 5 applications, and details of Mediation Officer appointments were taken out of the Annual Report in 2004.

Certification cancellation information (s. 33(2)) was added to Tables 1A, 1B, 2 and 2A as of 2004. Other information previously included in Table 1 footnotes has been moved to related tables for ease of reference and readability.

Applications for Collective Agreement Arbitration

The Labour Relations Board assumed the processing of these applications from the Collective Agreement Arbitration Bureau on July 5, 2002; however, due to technical and procedural considerations, applications under Sections 86, 87, 104 and 105 (CAAB applications) were counted in the Board's statistics only if received on or after January 1, 2003 (i.e., any outstanding CAAB applications at the end of 2002 are not included in the Board's statistics).

Requests for Appointment of a Mediator

Applications to appoint a Mediator under Section 74 were counted as applications for the first time in the 2002 Annual Report (see Table 1: Applications and Complaints Filed and Disposed of). These applications were processed by the Board/Council prior to 2002 but appeared only in the Analysis of Mediator Appointments Table for those years.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 to 1996, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board decided to revert to the pre-1989 method of counting these complaints. The change affects the statistics published as Sections 2, 3 and 4 of the *Industrial Relations Act* and Sections 5, 6, 7 and 9 of the *Labour Relations Code*. The following Table displays the statistics as they were published and as they would have been under the pre-1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss. 5 ,6 ,7 and 9 of the *Labour Relations Code* or ss. 2, 3 and 4 of the *Industrial Relations Act*)	1995	825	909	26	0	573	192	118	0	449
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	899	831	9	0	586	136	100	0	362
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	748	676	3	0	440	134	99	0	331
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	416	345	0	0	205	108	32	0	176
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	346	370	0	0	241	92	37	0	NP
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	386	388	5	0	220	100	63	0	NP
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	209	177	0	0	96	47	34	0	NP
	1989 (rev)	123	118	0	0	61	36	21	0	

NP --Not Published

Stay Applications

Applications for a stay of proceedings were counted as applications for the first time in 1993 (see Table 1: Applications and Complaints Filed and Disposed of). A footnote has been added to the Miscellaneous category to facilitate comparisons over time. In previous years, these applications were not counted.

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each employee in question if a ruling was made; if the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding the inclusion or exclusion of employees is counted as one application regardless of the number of

employees in question and regardless of whether or not a ruling is made.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989 (see Table 1: Applications and Complaints Filed and Disposed of). These applications have been processed by the Board/Council since 1974, but were not registered or counted prior to 1989.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover, for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 is counted as a separate application.

GENERAL NOTES

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled, including cases for which the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely, from category to category and from application to application.

TABLE 1: Applications and Complaints Filed and Disposed of in 2007 (including comparative figures for 2006)

Type of Application Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hea... H...
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Complaints of Unfair Labour Practices												
Complaints Regarding Internal Union Affairs (s. 10)	2007	9	11	12	3	0	3	0	6	0	8	
	2006	8	16	15	2	0	2	3	8	0	9	
Complaints Regarding Duty to Bargain in Good Faith (s. 11)	2007	11	37	38	0	0	23	7	8	0	10	1
	2006	7	32	28	0	0	17	7	4	0	11	
Complaints Regarding Duty of Fair Representation (s. 12)	2007	27	90	90	39	0	9	0	42[1]	0	27	
	2006	29	98	100	35	0	9	1	55[2]	0	27	
Other Unfair Labour Practice Complaints (ss. 5, 6, 7, 8 and 9)[3]	2007	61	184	170	5	0	123	15	27	0	75	5
	2006	84	210	233	0	0	169	36	28	0	61	12
Religious Exemptions (s. 17)	2007	0	5	5	0	0	0	5	0	0	0	
	2006	0	7	7	0	0	0	6	1	0	0	
Certification Applications (ss. 18, 19 and 28)	2007	40	213	204[4]	1	39	0	121	43	0	49	19
	2006	37	187[5]	184	0	56	0	89	39	0	40	15
Certification Variances (ss. 28 and 142)	2007	18	192[6]	181[7]	1	17	0	159	4	0	29	3
	2006	18	152[8]	152[9]	2	23	0	117	10	0	18	3

[1] 21 of the 42 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[2] 24 of the 55 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[3] In 1996, the Board changed the method of counting complaints under ss. 5 and 6 of the *Labour Relations Code*. Figures in this category reported prior to 1996 cannot be compared to figures in this category reported from 1996 to present.
[4] Includes eight raid applications to expand the bargaining unit of an existing certification: two dismissed; six granted.
[5] Includes 12 raid applications to expand the bargaining unit of an existing certification. In 2006, four such applications were disposed of: all withdrawn.
[6] Includes seven partial decertification applications.
[7] Includes six partial decertification applications. See TABLE 3.
[8] Includes 10 partial decertification applications.
[9] Includes 11 partial decertification applications. See TABLE 3.

TABLE 1: Applications and Complaints Filed and Disposed of in 2007 (including comparative figures for 2006)

Type of Application Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder O. Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Certification Cancellations (ss. 33 and 142)[1]	2007	11	78	74	7	8	0	49	10	0	15	49
	2006	10	66	65	1	7	0	46	11	0	11	54
Cancellation of a Voluntary Recognition (s. 34)	2007	0	4	4	0	1	0	2	1	0	0	2
	2006	2	5	7	1	2	0	4	0	0	0	3
Permission to Alter Conditions of Employment (ss. 32 and 45)	2007	2	5	6	0	3	0	0	3	0	1	1
	2006	0	3	1	0	0	0	1	0	0	2	0
Alleged Unlawful Alteration of Employment Terms and Conditions (ss. 32 and 45)	2007	13	7	16	0	0	14	0	2	0	4	10
	2006	15	34	36	0	0	27	0	9	0	13	23
Declaration of Successor Status												
Successor Employer (s. 35)	2007	27	66	65	2	13	0	47	3	0	28	13
	2006	25	85	83	1	17	0	59	6	0	27	10
Successor Union (s. 37)	2007	3	42	42	0	0	0	42	0	0	3	0
	2006	1	11	9	0	2	0	7	0	0	3	0
Common Employer (s.38)	2007	16	17	16	0	12	1	2	1	0	17	10
	2006	14	17	15	0	10	0	2	3	0	16	4
Accreditation Applications (s. 43)	2007	0	2	1	1	0	0	0	0	0	1	0
	2006	0	0	0	0	0	0	0	0	0	0	0
Accreditation Variances (ss. 43 and 142)	2007	1	8	7	0	0	0	6	1	0	2	0
	2006	0	6	5	0	0	0	5	0	0	1	0

[1] See TABLE 3.

[2] The workload required to process applications in this category varies widely. The Board may receive one application per collective bargaining relationship or one application covering several collective bargaining relationships. This report reflects the number of applications filed and disposed of regardless of the number of collective bargaining relationships affected by those applications (any notable discrepancies are listed below).

TABLE 1: Applications and Complaints Filed and Disposed of in 2007 (including comparative figures for 2006)

Type of Application Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearin Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Accreditation Cancellations (s. 142)	2007	0	0	0	0	0	0	0	0	0	0	0
	2006	0	0	0	0	0	0	0	0	0	0	0
Alleged Failure to Execute or Comply with a Collective Agreement (s.49)	2007	4	9	6	0	0	2	2	2	0	7	3
	2006	3	12	11	0	0	7	1	3	0	4	0
First Collective Agreement (s. 55)	2007	5	9	11	0	0	7	n/a	n/a	4[1]	3	0
	2006	1	25	21	0	0	18	n/a	n/a	3[1]	5	1
Appointment of a Mediation Officer (s. 74)	2007	14	107	96	0	0	65	n/a	n/a	31[1]	25	0
	2006	16	148	150	0	0	117	n/a	n/a	33[1]	14	0
Collective Agreement Arbitration Bureau (CAAB)[2]												
Section 86 (Appointment of Arbitrator)	*2007*	*13*	*83*	*64*	*0*	*22*	*5*	*n/a*	*n/a*	*37*[3]	*32*	*n/a*
	2006	*3*	*63*	*53*	*1*	*31*	*0*	*n/a*	*n/a*	*21*[3]	*13*	*n/a*
Section 87 (Appointment of Settlement Officer)	*2007*	*2*	*39*	*32*	*0*	*9*	*18*	*n/a*	*n/a*	*5*[4]	*9*	*n/a*
	2006	*11*	*32*	*41*	*0*	*7*	*33*	*n/a*	*n/a*	*1*[4]	*2*	*n/a*
Section 104 (Appointment of Arbitrator)	*2007*	*5*	*151*	*129*	*4*	*34*	*20*	*n/a*	*n/a*	*71*[5]	*27*	*n/a*
	2006	*10*	*177*	*182*	*2*	*35*	*25*	*n/a*	*n/a*	*120*[5]	*5*	*n/a*

[1] Applications in these categories may be disposed of as Other for the following reasons: unit decertified, business closed, matter referred to arbitration, parties allowed to exercise their right to strike/lockout (under s. 55(6)), or the Mediator reported out of the dispute at the request of one or more parties. The latter example may include applications for which a settlement is ultimately reached at a later date.

[2] These applications were included in the *LRB Annual Report* for the first time in 2003. Beginning in 2006, figures for individual sections as well as the combined totals for CAAB (ss. 86, 87, 104, 105) are included in this report. In general, for this category, Withdrawn indicates withdrawal/settlement prior to any appointments and Settled indicates withdrawal/settlement subsequent to the appointment of a Settlement Officer but prior to appointment of an Arbitrator. See individual section notes regarding Other dispositions.

[3] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted).

[4] Matter referred back to the parties under s. 87(3).

[5] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted). For 17 cases in 2007 and 38 cases in 2006, a Settlement Officer was appointed in addition to an Arbitrator.

TABLE 1: Applications and Complaints Filed and Disposed of in 2007 (including comparative figures for 2006)

Type of Application Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Section 105 (Appointment of Mediator-Arbitrator)	*2007*	*0*	*4*	*4*	*0*	*2*	*0*	*n/a*	*n/a*	*2[1]*	*0*	*n/a*
	2006	*0*	*6*	*6*	*0*	*1*	*0*	*n/a*	*n/a*	*5[1]*	*0*	*n/a*
Combined CAAB Sections	***2007***	***20***	***277***	***229***	***4***	***67[2]***	***43[3]***	***n/a***	***n/a***	***115***	***68***	***n/a***
	2006	***24***	***278***	***282***	***3***	***74[2]***	***58[4]***	***n/a***	***n/a***	***147***	***20***	***n/a***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss. 57-67 and ss. 69-70)	2007	5	173	168	0	0	102	50	16	0	10	92
	2006	21	60	76	1	0	45	22	8	0	5	37
Replacement Workers (s. 68)	2007	0	25	21	0	0	14	5	2	0	4	12
	2006	0	7	7	0	0	3	1	3	0	0	5
Essential Service Designations (s. 72)	2007	3	23	23	0	0	7	16	0	0	3	12
	2006	1	12	10	0	0	7	3	0	0	3	5
Last Offer Vote (s. 78)	2007	0	16	16	0	1	0	12[5]	3	0	0	0
	2006	0	18	18	0	1	0	16[6]	1	0	0	1
Review of Arbitration Award (s. 99)	2007	19	32	26	0	3	0	5	18	0	25	0
	2006	29	40	50	0	7	0	11	32	0	19	2
Interim Order (s. 133(5))	2007	4	16	20	0	11	0	6	3	0	0	14
	2006	0	15	11	0	4	0	2	5	0	4	6

[1] Mediator-Arbitrator appointed.

[2] For previous 2004 and 2003 reports, this figure is defined in a footnote regarding the number of CAAB applications Settled. See Note 14 for further detail.

[3] For CAAB applications disposed of in 2007, 40 (67%) of 60 Settlement Officer appointments resulted in full and final settlement.

[4] For CAAB applications disposed of in 2006, 70 (72%) of 97 Settlement Officer appointments resulted in full and final settlement.

[5] In eight cases the final offer was rejected, in one case the offer was accepted, in one case the vote was conducted but ballots not yet counted pending further adjudication, in one case the ballot box remained sealed pending result of an unfair labour practice complaint, and in one case the last offer vote was a nullity – ballots were not counted: see BCLRB No. B270/2007.

[6] In 13 cases, the final offer was rejected, in one case the offer was accepted, in one case the application was withdrawn prior to the ballots being counted, and in one case the vote was conducted but ballots were sealed pending adjudication of a subsequent application.

TABLE 1: Applications and Complaints Filed and Disposed of in 2007 (including comparative figures for 2006)

Type of Application Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hear Hel
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
File an Order in Supreme Court (s. 135)	2007	2	80	76	0	41	0	35	0	0	6	0
	2006	2	22	22	0	12	1	9	0	0	2	0
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s. 139)	2007	30	33	29	0	17	0	0	0	12[1]	34	14
	2006	29	44	43	0	22	0	0	0	21[1]	30	12
Reconsideration of a Decision (s. 141)	2007	22	57	65	1	10	0	5	49[2]	0	14	0
	2006	19	75	72	0	9	0	8	55[3]	0	22	1
Declaratory Opinion (excluding Declaratory Opinions Pertaining to Part 5 of the Legislation) (s. 143)	2007	5	5	2	0	0	0	2	0	0	8	1
	2006	2	4	1	0	0	0	0	1	0	5	1
Miscellaneous	2007	16	77[4]	76[5]	1	8	20	30	17	0	17	14
	2006	12	59[6]	55[7]	0	4	16	26	9	0	16	3
Total	**2007**	**388**	**1900**	**1795**	**65**	**251**	**433**	**626**	**261**	**162**	**493**	**53**
	2006	**409**	**1748**	**1769**	**46**	**250**	**496**	**482**	**291**	**204**	**388**	**49**

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

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[1] Ruling made.
[2] For 39 of the 49 applications dismissed in 2007, leave was denied.
[3] For 46 of the 55 applications dismissed in 2006, leave was denied.
[4] Includes five stay applications.
[5] Includes six stay applications (six were dismissed).
[6] Includes 10 stay applications.
[7] Includes nine stay applications (one was granted, six were dismissed, and two were withdrawn).
[8] 539 applications disposed of in 2007 were heard sometime during the process. In 2007, the Board held 392 hearings (including 273 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2007.
[9] 495 applications disposed of in 2006 were heard sometime during the process. In 2006, the Board held 341 hearings (including 218 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2006.

Chart 1:
Number of Applications and Complaints FILED in 2007 – by Type

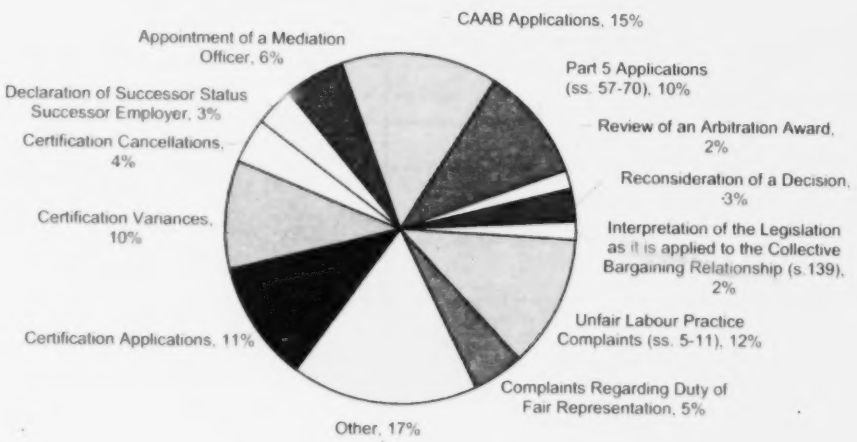
CAAB Applications, 15%
Part 5 Applications (ss. 57-70), 10%
Review of an Arbitration Award, 2%
Reconsideration of a Decision, 3%
Interpretation of the Legislation as it is applied to the Collective Bargaining Relationship (s.139), 2%
Unfair Labour Practice Complaints (ss. 5-11), 12%
Complaints Regarding Duty of Fair Representation, 5%
Other, 17%
Certification Applications, 11%
Certification Variances, 10%
Certification Cancellations, 4%
Declaration of Successor Status Successor Employer, 3%
Appointment of a Mediation Officer, 6%

TABLE 1A: Certification Applications and Certification Cancellations Under s. 33(2) Granted - Analyzed by Industry
Year 2007

Type of Industry	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Number of Employees[2]	Number of Applications Granted	Number of Employees[3]
Accommodation, Food and Beverage Services	2	38	8	199
Agriculture and Related Services	1	67	0	0
Business Services	4	70	1	3
Construction	28[4]	275	2	16
Educational Services	3	405	0	0
Finance and Insurance	1	15	0	0
Government Services	3	34	2	34
Health and Social Services	43	2074	3	49
Logging and Forestry	1	21	0	0
Manufacturing	11	499	7	145
Retail Trade	2	370	1	32
Transportation and Storage	9	147	3	68
Wholesale Trade	3	135	5	26
Other Services	10	338	6	217
Total	**121**	**4488**	**38**	**789**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of the disposition of the application.

[3] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer.

[4] Includes eight raid applications to expand the bargaining unit of an existing certification (covering a total of 212 employees).

Chart 1A: Certification Applications Granted by Industry Type (Number of Applications)

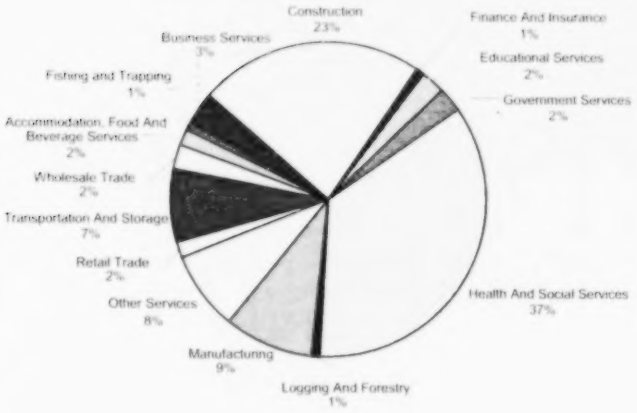

Chart 1B: Certification Applications Granted by Industry Type (Number of Employees)

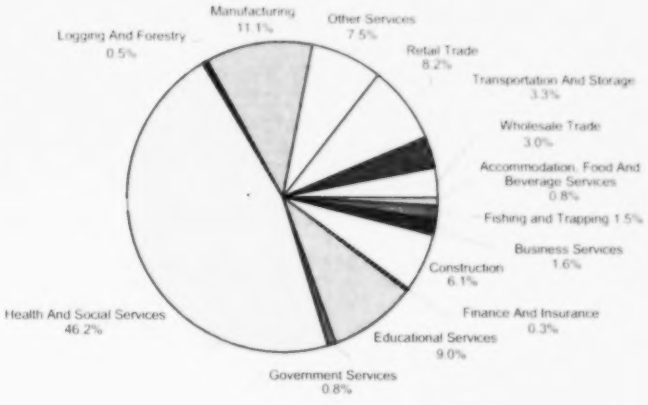

Chart 1C: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Applications)

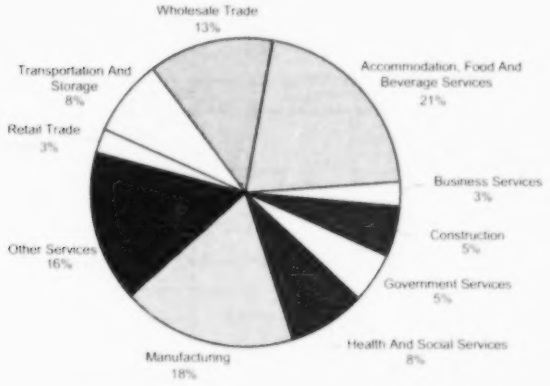

Chart 1D: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Employees)

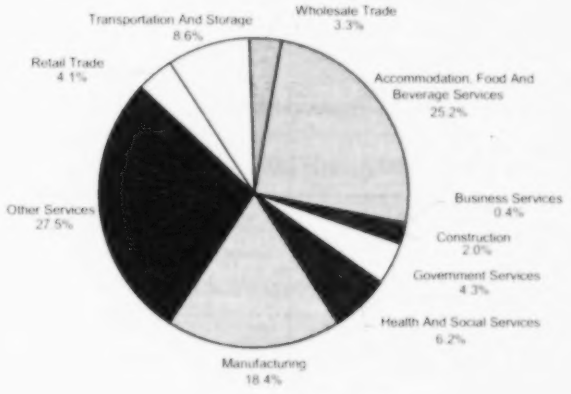

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed/Granted - Analyzed by Union
Year 2007

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
BCGEU (not including Brewery Workers)	25	15	5	3
BC & Yukon Council of Film Unions	10	0	0	0
Boilermakers	1	1	0	0
Carpenters (not including CMAW or CAST councils)	1	1	0	0
CAST (formerly CFAW Bargaining Council)	3	2	0	0
CMAW Bargaining Council	13	7	0	0
CAW	10	7	6	4
CEP (including Graphic Workers)	2	1	1	1
CLAC	4	2	2	1
CUPE	9	7	2	1
Cement Masons (formerly identified as Plasterers)	0	3[3]	0	0
Electrical Workers (IBEW)	4	0	2	1
Film Craftspeople (ACFC-CEP)	13	1	0	0
Fire Fighters	0	1	0	0
Food and Commercial Workers (UFCW)	3	1	5	2
Glazier & Glass Workers	1	0	0	0
Health Sciences Association (HSA)	2	2	0	0
Hospital Employees Union (HEU)	34	25	0	0
Hotel Employees	0	0	10	7
IATSE	13	1	0	0
Labourers	3	1	2	0
Longshore (ILWU)	1	1	1	1

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed/Granted - Analyzed by Union
Year 2007

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed[2]	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
Machinists and Aerospace Workers	8	1	1	1
Marine Workers	1	1	0	0
Millwrights	0	5	0	0
Nurses (BCNU)	6	7	0	0
Office and Professional Employees (OPEIU/COPE)	3	3	0	0
Operating Engineers (IUOE)	10	7	7	5
Painters (not including Glaziers 1527)	1	7[3]	1	1
Post-Secondary Educators (FPSE)	2	1	0	0
Public Service Alliance (PSAC)	3	0	0	0
PPWC	1	1	0	0
Retail Wholesale (RWU)	1	1	2	2
Service Employees (SEIU)	1	0	0	0
Sheet Metal Workers	2	2	1	1
Steelworkers	19	7	7	3
Teamsters	9	4	3	3
Single Employer Independent Union	0	0	1	1
Total	**212[4]**	**121[3]**	**59**	**38**

[1] Only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the number of applications filed and/or granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[2] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[3] Includes eight raid applications to expand the bargaining unit of an existing certification (includes three joint applications by two Unions).

[4] Adding the individual numbers in the column produces a larger number because seven applications were filed jointly by more than one union and six such applications were granted.

TABLE 2: Certification Applications and Certification Cancellations Under s. 33(2) Filed/Decided
Year 2007

Type of Application		Filed[1]	Granted	Dismissed	Total Decided
Total Certification Applications	Number of Applications	212	121	43	164
	Number of Employees[2]	12777	4488	3768	8256
Certification Applications for Previously Unorganized Employees	Number of Applications	191	97	31	128
	Number of Employees	10428	3125	2272	5397
Certification Applications for Organized Employees	Number of Applications	21	24[3]	12[4]	36
	Number of Employees	2349	1363	1496	2859
Total Applications to Cancel a Certification Brought by Employees under s. 33(2)[5]	Number of Applications	59	38	9	47
	Number of Employees[6]	1391	789	215	1004

[1] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

[3] Includes six raid applications to expand the bargaining unit of an existing certification (covering a total of 128 employees).

[4] Includes two raid applications to expand the bargaining unit of an existing certification (covering a total of 34 employees).

[5] Since only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table, the number of applications filed and/or decided may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[6] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer. The number of employees on an application for which a Return of Poll is either not available or not applicable (in particular, for the number of applications filed) is based on the bargaining unit size listed in the report of the Industrial Relations Officer.

TABLE 2A: Certification Applications and Certification Cancellations Under s. 33(2) Granted - Analyzed by Size of Bargaining Unit
Year 2007

Number of Employees	Certification Applications		Certification Cancellations[1]	
	Number of Applications	Percentage of Applications	Number of Applications	Percentage of Applications
1 to 10	41	33.88%	15	39.47%
11 to 20	31	25.62%	8	21.05%
21 to 30	11	9.09%	7	18.42%
31 to 40	9	7.44%	6	15.79%
41 to 50	6	4.96%	0	0.0%
51 to 60	3	2.48%	0	0.0%
61 to 70	4	3.31%	0	0.0%
71 to 80	2	1.65%	0	0.0%
81 to 90	0	0.0%	1	2.63%
91 to 100	1	0.83%	0	0.0%
101 to 200	10	8.26%	1	2.63%
Over 200	3	2.48%	0	0.0%
Total	**121**	**100%**	**38**	**100%**

[1] Since only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table, the number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

Chart 2A: Certification Applications Granted in 2007 Analyzed by Size of Bargaining Unit (Number of Employees)

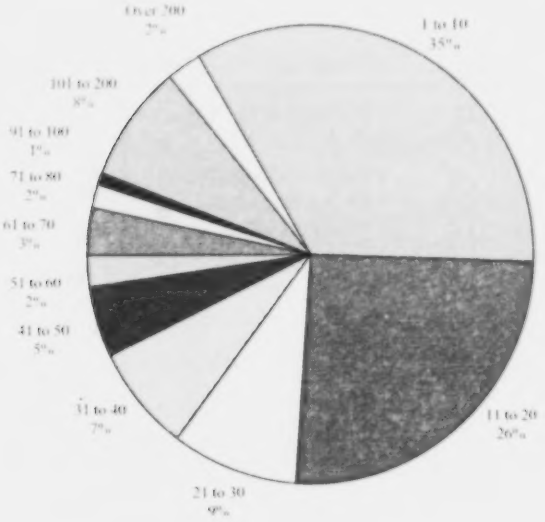

Chart 2B: Certification Cancellations (s. 33(2)) Granted in 2007 Analyzed by Size of Bargaining Unit (Number of Employees)

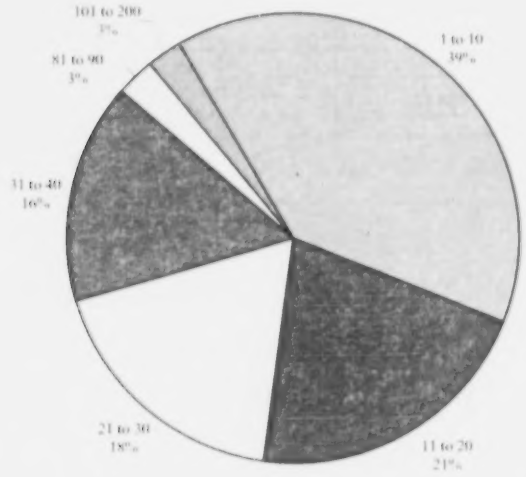

TABLE 2B: Certification Applications Granted Between 1990 and 2007 by Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		Total
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348[1]
1999	239	65.8%	65	17.9%	59	16.3%	363[2]
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88
2003	54	72.0%	11	14.7%	10	13.3%	75[3]
2004	58	65.9%	17	19.3%	13	14.8%	88
2005	170	63.9%	62	23.3%	34	12.7%	266[4]
2006	58	65.2%	21	23.6%	10	11.2%	89
2007	72	59.5%	26	21.49%	23	19.0%	121

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

[2] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

[3] Five separate certification applications for the same employee bargaining unit were granted and simultaneously consolidated resulting in the issuance of a single certification; thus the total number of new certifications granted for a bargaining unit size between 1 and 10 employees is 35 and the total number of certifications granted in 2003 is 71.

[4] A number of applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit(s). A further application was granted and two certifications issued as a result. In total, in 2005, 266 certification applications were granted resulting in 249 certifications being issued.

TABLE 3: Applications to Cancel Certifications Disposed of . Year 2007 and Year 2006

Type of Applicant (and Application)	Year	Granted	Dismissed	Not Proceeded With	Withdrawn	Total
Filed by Employee(s) (s. 33(2))	2007	38	9	7	6	60
	2006	42	9	1	5	57
Filed by Employee(s) (s. 142 - Partial Decertification)[1]	2007	4	1	0	1	6
	2006	7	3	0	1	11
Filed by Employer(s)	2007	9	0	0	2	11
	2006	2	2	0	1	5
Filed by Union(s)	2007	2	1	0	0	3
	2006	2	0	0	1	3
Total	**2007**	**53**	**11**	**7**	**9**	**80**
	2006	**53**	**14**	**1**	**8**	**76**

[1] Applications filed under s. 142 for Partial Decertification are included in TABLE 1 under the category Certification Variances; therefore, subtracting the number of applications filed by employees under s. 142 from the Total number of applications disposed of in TABLE 3 will equal the number of applications disposed of in TABLE 1 for the Certification Cancellations category.

TABLE 4: Reconsiderations Disposed of in 2007

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty of Fair Representation	9	2	0	0	0	11
Other Unfair Labour Practice Complaint Adjudication	5	3	0	0	0	8
Certification	3	2	1	0	0	6
Variance of a Certification	0	0	0	1	0	1
Cancellation of Certification	0	0	0	1	0	1
Declaration of Employer Successor Status	0	1	0	0	0	1
Common Employer	3	0	0	0	0	3
Alleged Illegal Strikes, Lockouts, Picketing, etc.	7	0	1	2	0	10
Last Offer Vote	1	0	0	1	0	2
Review of Arbitration Award	6	0	0	1	0	7
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	2	0	1	0	0	3
Stay of Proceedings	0	0	0	1	0	1
Ruling re: Procedure	3	1	1	2	0	7
Ruling re: Remedy	0	1	1	1	0	3
TOTAL	**39**	**10**	**5**	**10**	**0**	**64**

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	12	2	4	3	0	21
Union(s)	13	4	1	0	0	18
Employee(s)	14	4	0	7	0	25
TOTAL	**39**	**10**	**5**	**10**	**0**	**64**

Chart 4: Reconsiderations Disposed of in 2007
(Types of Applications Being Reconsidered)

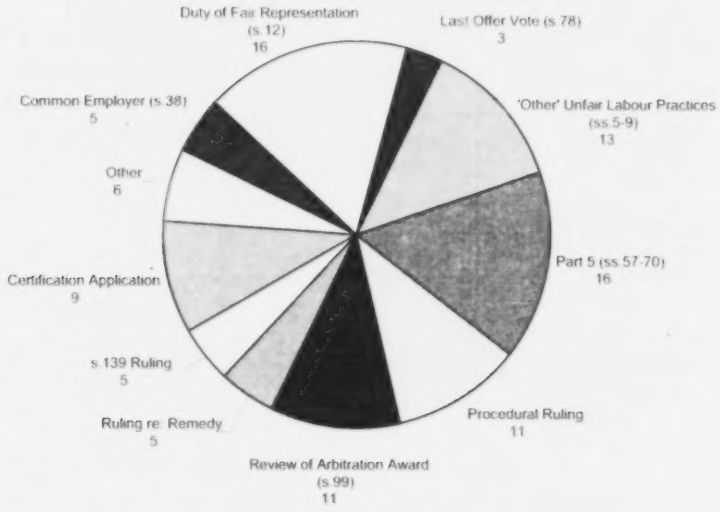
Duty of Fair Representation (s.12) 16
Last Offer Vote (s.78) 3
'Other' Unfair Labour Practices (ss.5-9) 13
Part 5 (ss.57-70) 16
Procedural Ruling 11
Review of Arbitration Award (s.99) 11
Ruling re: Remedy 5
s.139 Ruling 5
Certification Application 9
Other 6
Common Employer (s.38) 5

TABLE 5: "Success" Rate of Reconsiderations Disposed of in 1997 to 2007					
Year	Total Applications Disposed of	Withdrawn	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
1997	113	21	92	17	18%
1998	134	20	114	11	10%
1999	150	9	141	22	16%
2000	129	11	118	19	16%
2001	111	13	98	23	23%
2002	92	8	84	19	23%
2003	111	11	100	19	19%
2004	112	6	106	12	11%
2005	87	11	76	8	11%
2006	72	9	63	8	13%
2007	65	11	54	5	9%

TABLE 6: "Success" Rate of Reviews of Arbitration Awards Disposed of in 1997 to 2007					
Year	Total Applications Disposed of	Withdrawn	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
1997	66	13	53	8	15%
1998	65	10	55	13	24%
1999	54	11	43	7	16%
2000	69	5	64	15	23%
2001	60	13	47	16	34%
2002	58	4	54	12	22%
2003	55	7	48	10	21%
2004	58	8	50	11	22%
2005	36	4	32	6	19%
2006	50	7	43	11	26%
2007	26	3	23	5	22%

Chart 5: "Success" Rate of Reconsiderations

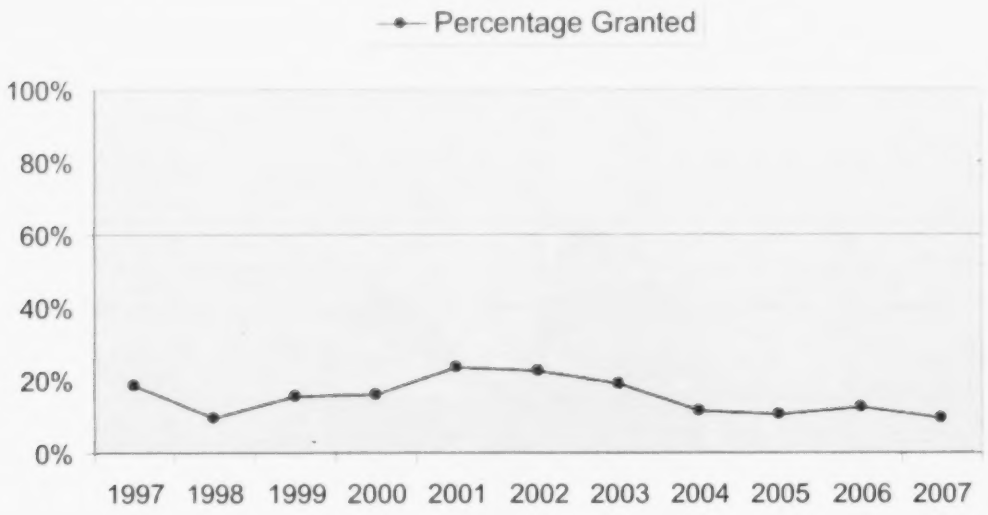

Chart 6: "Success" Rate of Review of Arbitration Awards

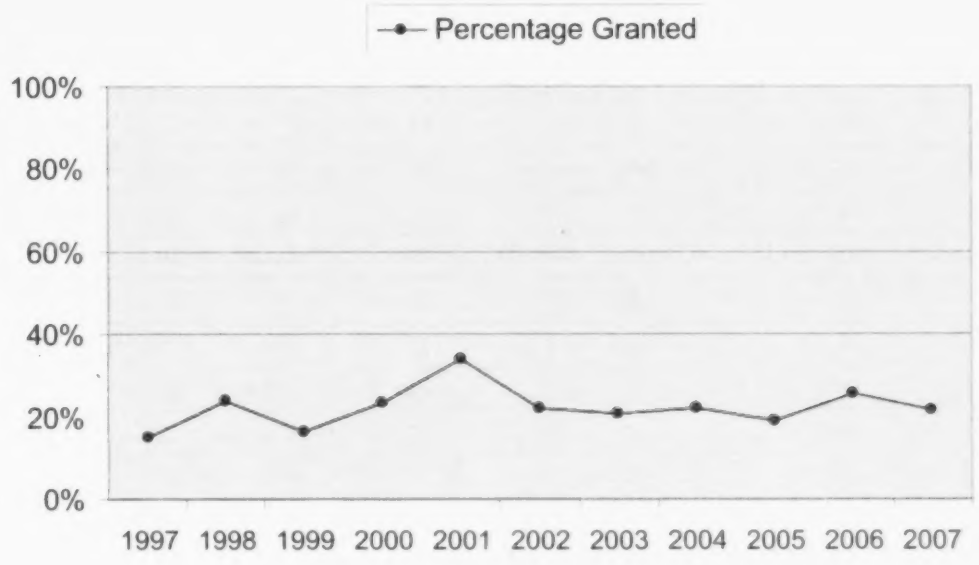

TABLE 7: Applications and Complaints Filed in 2007 Analyzed by Applicant

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs	0	1	10	0	11
Complaints Regarding Duty to Bargain in Good Faith	10	27	0	0	37
Complaints Regarding Duty of Fair Representation	0	1	89	0	90
Other Unfair Labour Practice Complaints	14	161	10	0	184
Religious Exemption	0	0	5	0	5
Certification Application	0	213	0	0	213
Certification Variance	31	156	7	0	192
Certification Cancellation	9	3	66	0	78
Cancellation of a Voluntary Recognition	2	0	2	0	4
Permission to Alter Conditions of Employment	5	0	0	0	5
Alleged Unlawful Alteration of Employment Terms and Conditions	0	7	0	0	7
Declaration of Successor Status					
Successor Employer	8	58	0	0	66
Successor Union	0	42	0	0	42
Common Employer	0	17	0	0	17
Accreditation Applications	2	0	0	0	2
Accreditation Variances	8	0	0	0	8
Alleged Failure to Execute or Comply with Collective Agreement	1	8	0	0	9
First Collective Agreement	3	6	0	0	9
Appointment of a Mediation Officer	55	53	0	0	107
CAAB Applications					
Section 86 (Appointment of Arbitrator)	*5*	*79*	*0*	*0*	*83*
Section 87 (Appointment of Settlement Officer)	*4*	*38*	*0*	*0*	*39*
Section 104 (Appointment of Arbitrator)	*9*	*142*	*0*	*0*	*151*
Section 105 (Appointment of Mediator-Arbitrator)	*4*	*3*	*0*	*0*	*4*
Combined CAAB Sections	***22***	***262***	***0***	***0***	***277***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.)	155	17	1	0	173
Replacement Workers	0	25	0	0	25
Essential Service Designations	0	0	0	23	23
Last Offer Vote	16	0	0	0	16
Review of Arbitration Award	10	18	5	0	33

TABLE 7: Applications and Complaints Filed in 2007 Analyzed by Applicant

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Interim Order	14	2	0	0	16
File Order in Supreme Court	62	17	2	0	80
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	7	27	0	0	32
Reconsideration of a Decision	19	23	16	0	57
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation)	2	4	0	0	5
Miscellaneous	32	42	4	0	77
TOTAL	**487**	**1190**	**217**	**23**	**1900**[1]

[1] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 8: Time Required to Process Certain Applications Disposed of in 2007

Type of Application	Number of Applications Disposed of[1]	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under s. 6 of the *Labour Relations Code* Where a Dismissed Employee is Involved	28	116	43
Complaints Regarding Duty of Fair Representation (s. 12)	51	214	88
Certification Applications (ss. 18, 19, 28)	203	40	12
Certification Cancellations (s. 33(2))	53	21	13
Declaration of Successor Employer (s. 35)	63	146	33
Common Employer (s. 38)	16	345	251
Review of Arbitration Awards (s. 99)	26	264	172.5
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s. 139)	29	209	154
Reconsiderations (s. 141)	64	120	81.5

[1] Does not include applications not proceeded with because applicant did not file sufficient information.

TABLE 9: Officer Assignments Completed in 2007

Type of Application Complaint	Assignment Outcome: Settled Withdrawn	Resolved Issues Assisted at Hearing	Narrowed Issues Assisted at Hearing	To Adjudication (No Informal)	Report of Investigation	Other[1]	Total
Part 5 (ss. 57 to 70)[2]	38	2	4	5	0	22	71
Unfair Labour Practice (ss. 5 to 11)[3]	40	0	10	9	0	2	61
Certification and Variance to Expand the Bargaining Unit[4]	60	22	40	9	1	1	133
Decertification and Partial Decertification[5]	12	1	19	3	2	4	41
Collective Agreement Arbitration (CAAB) (ss. 86, 87, 104, 105)[6]	35	0	2	0	0	21[7]	58
Other	19	1	8	6	9	2	45
TOTAL	**204**	**26**	**83**	**32**	**12**	**52**	**409**

[1] Includes Consent Order issued.
[2] Includes complaints regarding strikes, lockouts, picketing, etc.
[3] Excludes duty of fair representation (s. 12).
[4] In reports prior to 2001, the number of certification and expanded bargaining unit applications Settled/Withdrawn were included in the Resolved Issues/Assisted at Hearing assignment outcome category.
[5] Prior to 2003 applications for partial decertification were included under Other types of applications.
[6] Reporting of assignments under the Collective Agreement Arbitration provisions of the *Labour Relations Code* first appears in the 2003 annual report.
[7] Includes 16 assignments closed with matter proceeding to arbitration.

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously s. 8(4)(e) of the Labour Relations Code and the Industrial Relations Act)

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	12	3
2003	13	0
2004	8	1
2005	7	1
2006	8	0
2007	10	1
TOTAL	**687**	**39**

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.

Note: Figures for 1993 to 1995 were not included in the Annual Reports for these years.